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ABSTRACT

The manual's purpose is to serve as a tool to help parents and advocates to secure an appropriate education for handicapped children in New Mexico. Provisions of the federal and New Mexico laws and regulations which protect the rights of handicapped children are described. Funding for special education is explained, focusing on the state funding formula, the levels of special education programs, funding of ancillary services, and federal funding. Identification, referral, and evaluation procedures are discussed, with guidelines on parents' rights during this process. The functions of the Educational Appraisal and Review Committee, which determines eligibility, places, and develops services for handicapped children, are explored. Also discussed is the school's effort to provide continuity or necessary change in the child's program through annual review of the Individualized Education Program and comprehensive re-evaluations every 3 years. Parents' rights concerning access to school records are noted. Methods are suggested for resolving disputes between parents and school personnel. Appendices include a list of special education advocacy resources in New Mexico and several sample administrative forms. (JDD)

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SPECIAL EDUCATION IN NEW MEXICO

a guide for parents and advocates

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Developmental Disabilities Protection and Advocacy

94-142 Parent Training

Client Assistance Project

Institutional Commitment Representation

SPECIAL EDUCATION IN NEW MEXICO

A GUIDE FOR PARENTS AND ADVOCATES

James Jackson, Executive Director
Beatriz Mitchell, P.L. 94-142 Parent Training Coordinator

Protection and Advocacy System, 1982
Revised January, 1985

PREFACE

The initial development of this Guide was made possible through the cooperation and financial support of the New Mexico Developmental Disabilities Planning Council and the Administrative Office of the Court, New Mexico Supreme Court. The 1985 revision was supported by a P.L. 94-142 Parent Training grant from the U.S. Department of Education. The viewpoints expressed in the Guide, however, are solely those of the authors and the Protection and Advocacy System, and do not necessarily reflect the opinions of those agencies.

The Protection and Advocacy System is a private, non-profit advocacy and legal rights center for persons with disabilities. It operates pursuant to federal mandate and by Executive Order of the Governor of New Mexico.

This manual has been revised to include changes that have occurred since August, 1984 when New Mexico's Education Plan was approved, under Public Law 94-142.

The Protection and Advocacy System staff would like to thank the Albuquerque Public Schools for allowing us to publish their school forms at the end of this manual as samples.

Appendix I

SAMPLE RELEASE FOR ACCESS TO RECORDS

To Whom it May Concern:

I, _____ hereby authorize the release of
(name)

(all records)/(the following records _____)

concerning my child _____, which are maintained

by _____, to
(school or agency)

_____. This release is for
(person or agency to receive records)

the purpose of assisting me to promote the educational rights of my child.

_____ _____
(Date) (Signature)

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SAMPLE REQUEST FOR DUE PROCESS HEARING

Juan Sanchez, Superintendent
Rio Grande School District
999 Mesa Vista Ave.
Hometown, New Mexico 88000

Dear Mr. Sanchez:

Pursuant to New Mexico Standards for Special Education, I am requesting an impartial due process hearing concerning the [evaluation]/[special education placement and services] of my child, Mary Smith, who is 10 years old and attends the Elm Street Elementry School. I do not agree with the school's decision to _____. My discussions with school personnel have failed to resolve this issue.

[I have appointed (attorney or agency) to represent me and my child in this matter].

I understand that you will be contacting me [or my representative] within a few days to select a hearing officer and to set a date for the hearing.

Sincerely,

John Smith

INTRODUCTION

All handicapped children of school age in New Mexico are entitled to a free, appropriate public education. No matter how severe or unusual a child's disability may be, special education services must be provided if the regular school program would not meet his or her educational needs.

Special education services may include a modified educational program, specially designed materials, adaptive equipment, therapeutic services such as speech or physical therapy, and other special assistance. These services must be planned to meet the individual needs of the child, and provided in a manner that encourages as much interaction and integration with non-handicapped children as possible. The services must be described in a written program plan approved by the parent(s).

These are the educational rights of handicapped children. They came about as the result of long, hard work by many parents and advocates over the past decade. Providing these services is no longer a favor done for parents by the school; it is a requirement of the law.

Every school district has developed procedures and programs for special education. As a parent or advocate, you should become familiar with them. Following these procedures will often lead to the development and implementation of an appropriate education for a handicapped child.

However, in some cases, the established procedures fail to produce such favorable results. Parents may encounter uncooperative or even hostile attitudes on the part of some school personnel as they seek services for their child.

An administrator may say, for example, that although a child needs physical therapy, the school cannot afford such a service; or that there is no more room in the program that the child needs; or that the school simply does not offer the services needed; or that a child will have to be in a

class with children with very different disabilities because that is the best that they can do. Some parents have even been told that their disabled child could not attend school because he or she was not yet toilet trained.

Faced with these barriers, or any number of other possible problems, a parent or advocate needs to be informed and to take action on behalf of the handicapped child.

Even when major problems are not encountered, parents will find it helpful to know the programs and procedures they are entitled to. Just as a parent who is buying a car would carefully check the contract to make sure it is fair and in order, so should a parent check over their "contract" - the child's individual educational plan - with the school, in order to assure that it adequately meets the unique needs of the child.

The purpose of this manual is to serve as a tool for parents and advocates: a tool for helping you secure an appropriate education for handicapped children. The guide covers the laws that create special education rights, how programs are funded, the procedures for identification, evaluation and placement, and other issues to help you be an effective advocate. There is also a section on where to go for further help.

But this guide is offered in the knowledge that parents are generally the best advocates for their children, and in the hope that with this information as a guide, parents and other advocates can successfully achieve quality services that meet the unique needs of handicapped children in New Mexico. Good luck!

CHAPTER 1: THE LAW

All of the procedures, entitlements, assurances and protections discussed in the following chapters of this guide - all of the educational rights of handicapped children - are based on the provisions of state and federal law, and the regulations which implement those laws. This chapter very briefly describes what those laws are.

Background

Special education laws are very recent. Although the right to a free public education has been guaranteed to children in general for a long time, handicapped children were nonetheless systematically denied this right until the last two decades.

Two landmark court cases helped pave the way for the passage of laws establishing the right of children with handicaps to get free, appropriate special education services. In 1971, in the case of Pennsylvania Association for Retarded Citizens v. Commonwealth of Pennsylvania, 334 F.Supp. 1247 (E.D. Pa. 1971), the Court decreed that public schools must provide a program of education and training to all mentally retarded children in Pennsylvania.

In the following year, Mills v. Board of Education of the District of Columbia 348 F. Supp. 866 (D. D.C. 1972), was filed because handicapped children were excluded from public schools. The judge ruled that handicapped children had a right to suitable education and the right to a hearing before exclusion from, termination of, or classification into a special education program.

These two court cases, and a good deal of political pressure from parents of handicapped children, led the way to the enactment of the two current federal laws which govern special education.

Federal Law

One of these federal laws is the "Education of All Handicapped Children Act of 1975", often referred simply as P.L. 94-142. You may wonder why the Education of All Handicapped Act is also known as Public Law 94-142. The answer is not as complicated as it may seem. All federal statutes are called public laws, abbreviated as "P.L." Statutes are first introduced into Congress as bills. The first number of the Public Law (94) identifies the Congress which enacted the bill. The second number (142) identifies the order in which the bill was enacted by that Congress. P.L. 94-142 was the 142nd bill to be passed into law by the 94th Congress.

The law is actually a grant program that provides federal funds to those states whose Plan includes serving children with free, appropriate Special Education program plans, participation by parents in the educational process, resolving disputes between parents and school officials, access to student records by parents, and other important protections for disabled children and their parents.

Public law 94-142 guarantees four basic rights to all school age children with disabilities. They are the following:

1. Free, Appropriate Public Education (FAPE)
   An appropriate education is one which meets the needs of the child, as written in his/her individualized Total Service Plan. The Plan must meet the state standards on Special Education. The key to "appropriateness" is that the educational program must be planned to meet the unique-and-individual needs of the student.

2. Least Restrictive Environment (LRE)
   The least restrictive environment means that a handicapped child must be educated in a class or school where he/she has the chance to play and study with non-handicapped children as much as the child can handle and as close to home as possible.
   In New Mexico, there are four levels of Special Education classes which offer services for the handicapped child. They range from the least restrictive placement to the most restrictive. There are more details on placement beginning on page 18.

3. Related Services / Designated Instructional Services
   Related services are those therapeutic or support services that help

handicapped children to fully benefit from their educational program. Related services must be provided the student if it will benefit his/her education. Services that must be provided are those that the child needs, and not what is available in the school district at that particular time.

4. Fair Evaluations

A fair evaluation means that the child receives a full and complete evaluation, at no cost to the parent. A parent must give written consent before any tests can be done. The results of the evaluation must also be explained to the parent. Parents have the right to examine all the tests that have been done by the schools.

Public Law 94-142 also includes two protections that will assure the appropriate services for handicapped children:

A. Individual Education Plan (IEP)

In New Mexico, the Individualized Educational Program is composed of the Total Service Plan and the Instructional Component.

The Total Service Plan is a document that describes all the services that will be given to the handicapped student. This includes the names of the school staff responsible for providing the services, and the approximate dates of the beginning and ending of the services.

The Instructional Component is the blueprint of the student's program for that year. It consists of short-term objectives for carrying out the Total Service Plan.

Parents must sign permission for placement in the program that is recommended in the Total Service Plan.

B. Due Process Hearing

Parents have the right to request in writing a due process hearing if they have any disagreement with the school over their child's evaluation, placement, or program.

P. L. 94-142 and the current State Standards describe a detailed process to guarantee a fair hearing for both sides of the conflict by an impartial hearing officer.

There is a second, more general federal law covering special education. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against handicapped persons in the provision of services by any agency or organization which receives federal funds. Since public schools usually receive a variety of federal funds, they are covered by this law.

The federal regulations covering Section 504 are designed to assure that handicapped children have an equal opportunity to benefit from educational services. Recognizing that all handicapped children can benefit

from appropriate programs, these regulations (adopted in 1977) thus prohibit the exclusion of handicapped children. To assure appropriate services, the regulations have the following major provisions:

1) handicapped children must be thoroughly evaluated in a manner free from cultural bias in testing.

2) special education and related services must be provided if they required for a child to benefit from education.

3) a handicapped child must be educated in the same setting as non-handicapped children to the maximum extent appropriate to the needs of the handicapped child.

4) handicapped children must have equal or comparable access to school counselors, recreational activities, athletics, clubs, or any other school services or opportunities which are generally available to non-handicapped children.

5) parents must be informed about, and approve of, any evaluation or special education placement before it is done. If parents disagree with the school's recommendations or decisions concerning evaluation or placement, they can request an impartial hearing to resolve these problems.

The Section 504 regulations also require that school districts make an effort to find handicapped children who might need their services. However, schools are permitted to meet their obligations to handicapped children, in rare cases, by referring them to other programs or facilities more suited to the specific needs of the handicapped child, so long as this is at no cost to the parents.

The extent to which New Mexico and its schools were in compliance with Section 504 was the subject of a major class action lawsuit filed in 1975, New Mexico ARC v. New Mexico. The suit alleged a number of major inadequacies, including a lack of proper and prompt evaluation services, insufficient related services such as physical therapy, counseling or speech therapy, and inadequate monitoring of local school programs by the state. These charges were generally upheld in federal district court, where the state was found out of compliance with Section 504. This decision was

overturned on appeal because it was not clear whether the district judge had adequately applied the criteria established by the U.S. Supreme Court in a previous Section 504 case involving a deaf nursing student named Terry Davis. The NMARC case was sent back to district court for further action.

Shortly after the decision of the appeals court was announced, however, the State of New Mexico adopted the 1982 special education standards which were more generally consistent with the requirements of Section 504 than the previous standards. The lawsuit was subsequently settled.

New Mexico Law

Handicapped children in New Mexico also have rights under state law. According to N.M.S.A. 1978, Section 22-12-4 (1984 Repl. Pam.), "all school age persons in the state shall have a right to a free public education". More particularly, school districts are required to "provide special education sufficient to meet the needs of all exceptional children unless otherwise provided by law" (N.M.S.A. 1978, Section 22-13-5 [1984 Repl. Pam]).

State law broadly defines special education to mean "the provision of services additional to, supplementary with, or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials and equipment to meet the needs of exceptional children". Exceptional children are defined as those "whose abilities render regular services of the public schools to be inconsistent with their educational needs".

In order to implement and clarify these state laws, the Department of Education in 1976 issued standards (regulations) applying to local special education programs. Because these 1976 standards tended to be vague, outdated, and insufficient, new standards were adopted by the State Board of Education in June, 1982.

When the State Board of Education submitted its Plan to the U.S. Department of Education, it also revised the 1982 State Standards. The information in this Guide is based on these new 1984 standards as well as the provisions of P.L. 94-142 and Section 504.

CHAPTER 2: FUNDING FOR SPECIAL EDUCATION

New Mexico has committed itself to assuring that adequate funds will be available for needed special education services. The state has in place a mechanism for providing the funds needed by local schools for special education. This mechanism assures that local districts will not be financially burdened in providing special services.

In addition, by participating in P.L. 94-142, the state also receives federal funds to supplement this state funding. In the 1984-85 school year, around $82 million in state funds, and over $6 million in federal moneys, will be spent on special education.

These financial arrangements for special education are discussed below.

State Funding Formula

Ultimately, all public school finances are controlled at the state level in New Mexico. Under the Public School Finance Act, the state guarantees that all school districts will have reasonably similar levels of funding available to them for educating children in their districts. Those districts with few sources of local revenues for education receive a larger state subsidy for education than do wealthier school districts.

This equalization is accomplished through the use of a funding formula. Each year, the state establishes a dollar figure for one "unit" of educational service. This is the amount it is estimated to cost to educate an average school child. In general, the amount of money available to school district, from state subsidy and local resources, is the number of students times the unit cost. This amount of money is guaranteed to the school district so long as its programs and procedures meet state standards.

However, the funding formula takes into account that it costs more to

educate some children than others. This has a major impact on financing special education.

Special Education Funding

As described in Chapter 4 of this guide (pages 22-38), there are four levels of special education programs in New Mexico. Level A programs (such as reading specialist or a speech therapist) are the least intensive and are only minor modifications to a regular program. Level D programs (such as a "self-contained" class for children with severe mental retardation) are the most intensive and are totally different than the reguar program. Levels B and C are intermediate steps between these.

Since it costs much more to provide D level programs than A level programs, the funding formula for these programs is proportionally increased. The following formulas are used to determine how much money will be available to a local school district offering special education services:

1) For each approved level A program (serving 18-35 students), the school will receive 20 units. For example, if the unit value is $1,500, then a school district with 2 level A programs will have $60,000 for the education of students in those programs.

2) For each approved level B program (serving a total of 18-24 students, no more than 8 at a time), the school will also receive 20 units.

3) For each child served in an approved level C program, a school district will receive 1.9 units. In other words, a district with 50 children in C level classes will generate 95 units (50 x 1.9). Again, if the unit value is $1,500, the school will have $142,500 for these programs.

4) For each child served in an approved level D program, the school receives 3.5 units. If 20 children are served and the unit value is $1,500, then the school's allotment is $105,000 (20 x3.5 x $1,500).

1984-85 Unit Cost

For the 1984-85 school year, the legislature has established a unit value of $1,583. Consequently, each local school district will have the following funds available for special education programs:

Level A program: $31,670.

Level B program: $31,670.

Level C, per child: $3,008.75

Level D, per child: $5,542.25

Ancillary Services Funding

The above formulas indicate the amount of money available to a school district to serve children in special education placements. These funds generally go toward the costs of teachers and aides, materials, evaluation, maintenance of special education facilities, etc.

However, a substantial number of special education children need additional services such as speech and language therapy. There is a separate mechanism for generating funds for these services. A school district with a documented need for a full time specialist, based on the needs shown in the program plans of their special education students, can receive an additional level A program allotment for these ancillary services.

In other words, if a school district serves 40 D level students and 75 C level students, and the school needs a full time therapist to meet their physical therapy needs, the school can receive funding for one level A program in addition to the amount they receive per child for C and D level programs, as explained above.

The services eligible for this additional funding are speech and language therapy, occupational therapy, physical therapy, educational audiology, interpreter services for hearing impaired persons, orientation and

mobility services, and psychological services. Adaptive physical education, school counseling, and parent training are not eligible for separate funding.

Monitoring Expenditures

Unfortunately, there is no requirement that all of these state funds for special education actually be spent for these programs serving handicapped children. As long as the school's programs and procedures meet state standards, a school can spend these funds in any of their general programs. Parents and advocates may therefore find it difficult to determine exactly how much their local school spends on special education, but this information can be requested of the school administration or school board.

Federal Funding Under P.L.94-142

Public Law 94-142 has also brought monies to New Mexico. For the 1984-85 school year, the state will receive over $6 million. This money will be distributed throughout the state at approximately $250.00 per child enrolled in special education classes.

These federal monies must be spent to supplement or improve appropriate special education programs. They must be used in addition to any state funds that have already been designated for special education. P.L. 94-142 does require that school districts assure that these federal funds are being spent on special education students.

Some school districts, particularly the large ones, will use their funds independently of other districts. They will have to abide by the federal guidelines set by the U.S. Department of Education and included in the revised state standards.

Other districts have chosen to pool part of their monies and form what are called the Regional Center Consortiums (RCC). Each Center consists of approximately seven school districts. A director for each Center will coordinate the services that the Center will provide.

The point of this chapter is simply that the state now makes available to the local school a predictable and guaranteed level of funding to meet the needs of handicapped children. A school which claims that funds are not available for needed services is in most cases misleading parents.

CHAPTER 3: IDENTIFICATION, REFERRAL AND EVALUATION

New Mexico's public schools are mandated to provide special education services to all school aged children within their school district boundaries for whom the regular school program is not appropriate due to the child's disability. In New Mexico, if a child needs special education, he or she is eligible for services from age 5* through 21 or until the completion of a planned course of study. In nearly all cases, the school district in which a handicapped child resides has the educational responsibility for that child.

In order to appropriately serve all handicapped children, it is necessary that all of them be identified, referred to the special education program, and evaluated for any special needs. This chapter describes the responsibility of the public school in the areas of identification, referral and evaluation of handicapped children, and the rights of parents in those processes.

Identification

Under both N.M. State Standards and P.L. 94-142, each public school district must make an effort each year to locate, screen, and refer handicapped children in its district who may need special education services.

* Preschool Incentive Grant: When the New Mexico State Plan was approved by the U.S. Department of Education, New Mexico also became eligible for numerous grants, one of which is called the Preschool Incentive Grant. This grant is meant to encourage our state to provide education for children who are not yet five years of age. Although it is not a large sum of money, it is a clear suggestion that the lowering of the school age would be an appropriate move towards meeting the state's goals for "full educational opportunities" under its 1984-86 State Plan. New Mexico has already funded a few pre-school programs for children with special needs, but not with monies from the Education budget. Rather, the Health and Environment Division (HED) provides funds, through the Developmental Disabilities Bureau (DD Bureau), to partially pay for special preschool services for about one-third of the children who need the help.

For children already in the public schools, efforts in addition to the above must include a district-wide screening program to identify children needing special help. Each school district can develop its own particular screening procedures.

Referral

Those students identified through the above activities as likely to need special education services should be referred for a full evaluation.

However, any parent, advocate, teacher, or other interested person may also make a referral directly to the school special education program, if they know of a particular child they believe needs special education.

Parents must be notified that their child has been referred for an evaluation before any individual diagnostic testing is done. The notice must include:

- a description of the information used as the basis for referral
- the kind of evaluation procedures which will be used
- information about the right of parents to examine all relevant school records about their child

Evaluation: Beginning the Process

Before an individual diagnostic evaluation is begun, the parent(s) must agree in writing. As a parent, you should meet with school personnel to discuss the evaluation process. They should explain this in clear terms to you before you sign a form giving your consent. If an interpreter is necessary, the school must provide one at no cost to you.

At this same time, the school must inform you that you have the right to request a mediation conference or an impartial hearing if you cannot resolve any disagreements you have, or may in the future have, with the school concerning the identification, evaluation, placement or program of

your handicapped child. We will discuss this further in Chapter 7.

If your child has been referred for evaluation, either by you or through some other mechanism, but the school refuses to provide the evaluation, then you may have to take advantage of those procedures. Similarly, if the school tells you that your child will have to wait for 6 months or a year before an evaluation can be done, you should take action. The state standards require that an evaluation must be completed within 45 days of referral. Your child is entitled to a prompt evaluation.

Evaluation Procedures

The state has established specific guidelines for the sort of testing which should be done to measure each major type of disability. Most parents will not know the specific nature or use of these tests. However, there are a number of issues which a parent should know about concerning these evaluation procedures.

With few exceptions, the evaluations should be done by a certified diagnostician. If a school does not have a staff diagnostician, or if the staff is too busy to evaluate your child promptly, the school may hire a private diagnostician or contract with another school or agency for an evaluation. Only specially trained personnel should administer diagnostic tests.

The evaluation should be comprehensive in assessing the child's abilities and disabilities. No single measure of performance, such as an "IQ" test, should be used as the only measure of a child's ability or disability. Furthermore, every area in which a child is believed to have a significant disability should be measured. For instance, if your child is mentally retarded but also has a speech problem, the child's need for speech or language therapy should be measured as well as his or her learn-

ing problems. There are a wide variety of handicapping conditions which may limit the child's ability to benefit from educational services; each suspected problem should be considered. This may include referral to a psychiatrist, physicians, or other specialist for appropriate evaluation. Be sure your child's evaluation will cover all of his or her educational need areas.

Finally, the evaluation must be done in a manner that is generally free of cultural bias. Many minority children have been misdiagnosed, and then placed in the wrong program, because evaluation measures did not adequately reflect their abilities due to biased testing procedures. If a child's native language is not English, the evaluation should be conducted using materials and language corresponding to the child's primary language. The evaluator should be proficient in that language. If this arrangement is not possible, an interpreter may be used, at no cost to the parent.

Evaluation Results

The evaluation of a handicapped child is one of the most important steps in the special education process, because the results of the evaluation wil form the basis for program and placement recommendations (see next chapter). Therefore, there are some important protections provided to parents regarding the evaluation.

First, parents are entitled to an adequate explanation of the results of an evaluation, in terms that they can understand. To make a good judgement about a possible placement for your child, you need to know what the school has learned from the tests which have been given. If you ask for them, the school must provide you with a written summary of the evaluation results.

Second, parents have the right and (must be told of their right) to

request a mediation conference or an impartial due process hearing as a means of resolving any disagreement over evaluation matters. For instance, a school an evaluation may show a level of disability (or ability) that is far above, or quite different than, what you believe to be correct. You may have obtained an independent evaluation (see below), but the school sticks to its original diagnosis. You may then wish to request a mediation conference or an impartial hearing.

Independent Evaluation

If you disagree with the quality, scope or interpretation of the evaluation done by the school, you may request an independent evaluation at public expense. P.L. 94-142 has brought a change in the 1984 State Standards making it easier for a parent to ask for a free, independent evaluation.

The parent can ask for a qualified independent evaluation by notifying the school district. The school must provide and pay for the evaluation unless it takes the following steps:

1) The school can call an E.A. and R. meeting to explain to the committee the reasons why the existing evaluation is appropriate and why an independent evaluation is unnecessary.

2) The E.A. and R. Committee needs to discuss and decide if an independent evaluation is appropriate.

3) If the E.A. & R. Committee decides that an independent evaluation is necessary, the school district remains responsible for paying for it. If the committee decides that the school evaluation is appropriate they will need to call a due process hearing and prove this to an impartial hearing officer. They would then not have to pay for the independent evaluation.

Once the evaluation process is complete, a decision must be made concerning the eligibility, placement, and program for a handicapped child. Procedures for making this decision are covered in the next chapter.

CHAPTER 4: SPECIAL EDUCATION PLACEMENT AND SERVICES

Overview

For each evaluated handicapped child, the school will establish an Educational Appraisal and Review (E A & R) Committee. The E A and R Committee reviews the evaluation results, and decides if the child is eligible for special education. The Committee then decides on the type of placement and the type of services for the child; which are listed in the Total Service Plan. Parents must be invited to participate in all E A & R Committee meetings. Before a child is placed a parent must agree to the placement. Within 30 days of placement, a detailed instructional plan must be developed. Parent involvement in this general process is very important.

The E A & R Committee

This Committee is responsible for making all major decisions about the evaluation, eligibility, and placement of handicapped children. It also has the responsibility for making sure that these decisions are in compliance with state standards for special education. It is the E A & R Committee which will determine which services will be provided and which ones will not.

The E A & R Committee for each child consists of at least four persons. One of these four must be someone familiar with the evaluation of the child (for instance, the diagnostician who performed the tests, or the coordinator of diagnostic services who knows how to interpret the results). Another member of the Committee should be the child's teacher, or one of the teachers if several are involved. The teacher may be the special education teacher, a regular education teacher, a vocational teacher, etc. It is up to the school to name at least two other Committee members. They

might be other teachers, therapists (if appropriate), a school administrator such as the school principal, etc. As a whole, the Committee should be familiar with the specific child, familiar with the range of programs offered by the school, and have the authority to make program decisions.

PARENTS MUST BE INVITED TO PARTICIPATE IN ALL E A & R COMMITTEE MEETINGS. Considering how important the Committee's decisions are, parents should be sure to attend such meetings. Parent involvement at this step is one of the most crucial ways of making sure that an appropriate education is developed for the handicapped child.

P.L. 94-142 has led to changes in the New Mexico State Standards which assure that parents will be invited to all E A & R committee meetings. The Standards now direct school personnel to maintain records of the ways in which they have tried to contact the parents. They also must note the number of times they have tried to reach the parents. The state standards also state that a "written notice must be given to parents a reasonable time before the public [school] ..." calls for the E A & R committee meeting. This is important because it means that a parent must be given a "reasonable" or sufficient notice so that he/she can make proper arrangements at work and at home in order to attend the meeting.

It is clear that both the New Mexico and the federal rules intend that the parents or guardians participate in deciding their children's educational programs. However, if the school has made the appropriate efforts to contact the parents, and the parents do not attend the meetings, the school can hold the E A & R.

As a participant in the E A & R process, the parent is entitled to express opinions and make suggestions, as various programs options are discussed. This is your best chance for seeing to it that your child receives all needed special education services in the right program.

In most cases, parents will not actually be members of the E A & R Committee. So in some respects, parents will not have an equal "vote" on the various issues that the Committee must decide upon, as listed below. On the other hand, parents must consent to the placement and service recommendations of the Committee, and may utilize formal procedures to challenge them if they do not consent. So parents will often have a significant influence on decisions.

Eligibility Determination

The first major decision for the E A & R Committee to make is whether a particular child is eligible for special education services.

Some handicapped children will not be eligible, even though they have a disability. For instance, a child with a moderate vision impairment who wears glasses may need no special consideration other than a seat near the front of the classroom. Generally, special education regulations assume that handicapped children will be educated with non-handicapped children, with the same program, unless this does not meet the needs of the handicapped student. A handicapped child must need special services to benefit from education in order to be eligible for them.

To be eligible for special education, handicapped children must meet the criteria established under state standards for a particular disability category. Each category has its own specific eligibility requirements. A handicapped child must be eligible under one of the following categories:

> Behaviorally Disordered: Within the educational setting, the behaviorally disordered child is one whose behavior may be discordant in his relationship with others and whose academic achievement has been impaired due to an inability to learn utilizing the presented teaching techniques. The child's current behavior manifests either an extreme or a peristent failure to adapt and function intellectually, emotionally, and socially at a level commensurate with his/her intellectual level and chronological age.

Communication Disordered: The communication disordered child is one whose primary handicap is the impaired ability to understand or use language for learning and communicating.

Hearing Impaired: The hearing impaired child is one whose loss of auditory acuity delays, inhibits, or prohibits the development of speech and language and academic achievement.

Learning Disabled: A learning disabled child generally is one within the average or superior range of intelligence who exhibits one or more significant disorders in the essential learning processes which are manifested by reading, writing, spelling, or mathematical disabilities. These disorders are presumed to be due to central nervous system dysfunction. Even though a learning disability may occur with other exceptionalities or environmental influences (e.g., cultural differences, insufficient/inappropriate instruction), the learning disability is not the direct result of those exceptionalities or influences.

Mentally Handicapped: The mentally handicapped child is one who exhibits significantly sub-average general intellectual functioning with deficits in adaptive behavior which are manifested during the developmental period. Intellectual development, adaptive behavior, and academic achievement are significantly below peer age group.

Multiply Impaired: The multiply impaired child is one who has a combination of two or more disabilities which produces such serious learning, developmental and/or behavioral problems that progress in a special program designed to accomodate a single major exceptionality is inhibited or severely limited.

Physically Impaired: The physically impaired (health impaired) child is one whose bodily function is impaired due to congenital or acquired defects in physical structure and/or function, or one who has chronic illness which prevents regular class attendance.

Visually Impaired: Visually impaired children are those who because of the type and degree of visual impairment, after best possible correction, are unable to perform satisfactorily in the regular classroom without significant modifications in curriculum and instructional materials, equipment, and methods.

The eligibility criteria for some of these programs is quite specific; for others it is more vague. In most cases, the school has some discretion in deciding whether a child will be eligible. Within the limits of the criteria, the most important factor is whether the regular education program adequately meets the educational needs of the handicapped child. If it clearly does not, eligibility is usually recommended. Your local school

can give you more detailed information on eligibility, or you may consult the state standards.

If a child is found to be not eligible for special education, parents can request an impartial due process hearing if they don't agree with the school's decision. Since the parent can and should participate in the E A & R, the best time to make your disagreement clear is at the E A & R meeting. But if this does not work, a hearing will give parents a chance to present evidence that their child has enough special needs to qualify for special education.

Regardless of special education eligibility, all handicapped children have certain rights. The main right is to equal access to school services and programs. For example, a child with minor physical disabilities may not be excluded from music, swimming, physical education, drama, or other school programs unless there is clear medical evidence for such exclusion, based on the safety of the child or other students.

The Individualized Educational Program (IEP)

Once eligibility is determined, the E A & R Committee will decide on the specific placement and services for each handicapped child. The Committee's decisions must be put in writing in a document called the Total Service Plan. This is the school's "contract" with the parents; it lists all the services which the school takes responsibility for providing.

Within 30 days of whatever placement is arranged for the handicapped child, a detailed program plan must be developed for the child. This second document is the "instructional component" of the IEP. This plan lists goals and objectives, teaching methods, timelines, and other very specific parts of the child's program.

Since these documents are the foundation for all special education

services, they are covered in depth in the following section. One very important point to keep in mind is that the school is required to identify the educational, ancillary, and support needs of each exceptional child without regard to whether the agency currently has available the services to meet all identified needs.

Total Service Plan

This is clearly the most important document in the educational planning process. As an active particpant in the E A & R process, a parent must be able to review the school's proposed services and placements, make other suggestions, and decide what seems most appropriate for the child. The Total Service Plan addresses every major issue concerning placement and services. The following are the key areas in the Plan which require a decision by the E A & R Committee.

1. **Category of Exceptionality (Disability)**

   As indicated above, eligibility is based on certain disability categories. Services will be designed around that disability. Consequently it is important to be sure the category is correct. If there is more than one disability, be sure the major problem area is the one listed; or that the category used is "multiply disabled".

   If your child has a serious physical disability but does not have a mental disability, it would be inappropriate to have the child placed in a program for children with mental retardation. School officials may tell you that there are not enough children with a particular disability to justify a separate class. This situation may require some creative arrangements, but low enrollment does <u>not</u> justify an inappropriate placement. Be sure

the disability category is correct for your child and that the services provided are directed toward that disability, not someone else's.

2. **Placement Level (The"Least Retrictive Environment")**

New Mexico has established a continuum of special education placements which recognizes that severely disabled children need much more special help than do mildly disabled children. It also recognizes that disabled persons must have as much interaction with non-disabled students as possible. Under this system, there are are four major placement levels, and a variety of alternate placements.

Level A Programs are for those children whose special learning needs do not require a basic modification of the regular education curriculum. However, some special instructional methods or materials may be necessary. At this level, a special education teacher works directly with a student and his/her regular teacher in the regular classroom, on a regular schedule.

Level B Programs are for children who do not need a basic modification of the regular curriculum but do need special instructional methods or materials and also regularly scheduled intervention outside the classroom. This level is generally referred to as a "resource room".

Level C Programs are for children whose learning needs are such that the content, methods, and pacing of the regular program are not appropriate and must be modified. Service is provided in a separate classroom for at least half a day but may be on a full-day basis. No more than 15 students may be served in any one C level program. If any one of those students cannot move around independently due to a physical disability, there must be an aide in the class in addition to the special education teacher.

Level D Programs are for the most seriously disabled students. These children require very substantial modification of instructional content and methods, and a very structured, well supervised educational environment. Placement may be for anything between half time and full time. No more than 8 students may be served in a D level class. An aide is required when enrollment reaches 7 or when any of the students cannot move around independently.

Nearly all special education students can be appropriately served in in one of the above placement levels. However, in rare cases other placement possibilities may be considered by the school.

> Homebased Services are only for those children with severe health impairments. A physicians or psychiatrist must indicate that transportation to the public school or special class would be medically harmful. Homebound services are typically designed for students in the hospital or convalescing at home, and are almost always temporary. At least 5 hours of instruction time per week must be provided under this category. Homebound services are not appropriate for a student that the school simply has a hard time serving in the public school. It is not a substitute for the lack of an appropriate full time placement.
>
> Private non profit training programs are occasionally the appropriate setting for the older special education student needing vocational training. Public schools may contract with such programs to provide services, but the same procedures and standards of school special education programs generally apply.
>
> Other public programs are occasionally considered when a child's disability is so severe that the E A & R Committee believes that the child cannot be appropriately served in the school system regardless of the special services available. For instance, a child may be referred to the School for the Deaf in Santa Fe or the School for the Visually Impaired in Alamogordo.

For the parent trying to determine what placement level makes sense for their child, there are three major factors to keep in mind. This meets the P.L. 94-142 requirements of "appropriate programing".

First, the school must provide services sufficient to meet the child's needs. A seriously disabled child should generally not be served in an A or B level program. Such a child will probably need C or D level services in order to benefit from education. Since the school receives more money for children served in more intensive placements (see Chapter 2), the school should have enough funds to provide the right level of services.

Secondly, since a child has a right to the "least restrictive environment", placement must be in a setting which maximizes interaction of handicapped and non-handicapped students. If a B level program adequately

meets a child's needs, he or she should not be restricted in a C or D level class. A child in a D level class should still be given opportunities for interaction with non-handicapped students in such settings as the cafeteria, extra-curricular activities, and other appropriate school programs. Even a child enrolled at a separate program, such as the School for the Deaf, should be educated with non-handicapped children (for instance through a part time placement in the local public school) to the maximum extent consistent with the needs of the disabled child.

Third, preference must be given to a program within the local school district unless an outside placement is absolutely essential. When a local school district simply is unable to provide the right services, it is the school's responsibility, not the parent's, to arrange for an appropriate placement elsewhere at no cost to the parent or student.*

For instance, a child with very severe behavioral problems might not be able to be served in the regular public school setting. If this is the case, school officials must arrange an alternate placement which will meet the child's needs. Your local school cannot simply say that serving your child is not possible and it is up to you to find a placement, at your own expense or otherwise.

Preference in placement should also be given to the public school nearest the child. That is, the child should attend the school where he/she would normally go if he/she did not have special needs. However, a school district has broad discretion in arranging its programs, so the

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*Parents of disabled children always have the right to enroll their children in private schools, at the parent's expense. The local public school district will pay for such a placement only if it is specifically called for in the Total Service Plan, or if a parent successfully shows at a due process hearing that the school's proposed placement is not appropriate and that the private placement will be appropriate and that proper procedures have been followed.

appropriate program may not be at the local school. When this is the case, the school district must generally provide transportation.

Finally, preference in placement should also be given to a program that is age-appropriate to the handicapped child. A mentally retarded teenager should not be placed in an elementary school except in very rare cases. If your child needs a C level program, be sure the C level placement is in a school with children of similar ages.

3. **Participation in Regular School Activities**

As noted previously all handicapped children must have equal or equivalent opportunity to participate in school programs and activities. The Total Service Plan should specify what modification, if any, will be necessary for the child to participate in such activities. Where appropriate, these activities may include regular academic classes, music, drama, physical education, after school clubs, athletics, field trips, etc.

According to New Mexico's special education standards as well as federal law, the local school must assure that handicapped children have access to a comparable range and quality of curricular and extra-curricular activities and programs as non-handicapped children.

4. **Related Services**

Related services are those therapeutic or support services which assist handicapped children to benefit from special education. Included in this category are special materials, films, aides, adaptive equipment, and "ancillary" services. Ancillary services are therapeutic services provided by licensed or certified professionals.

Ancillary services include the following:

a. Speech and Language Therapy
b. Occupational Therapy
c. Physical Therapy
d. Educational Audiology Services
e. Interpreter Services (for hearing impaired students)
f. Orientation and Mobility Training
g. Psychological Services and Therapy

When a handicapped child is believed to need any of these related services, an evaluation of that need should be done by an appropriate professional. If such an evaluation has not been completed by the time a parent reaches this step in the special education process, the E A & R Committee should be asked to arrange this evaluation.

The local school district is required to list all the related services which a handicapped child needs in order to benefit from education. It does not matter whether these services are currently being provided to other students or not. The Total Service Plan should include all the related services which a child must have in order to benefit from education. The services to be listed are up to the E A & R Committee.

School districts will receive extra funds from the state to also use their P.L. 94-142 funds for additional services to disabled students, so lack of funding is not an excuse. Even related services which do not produce additional funding as "ancillary" services may be required if necessary for a child to benefit from education. Related services which have been upheld in court include clean intermittent catheterization, psychotherapy, and adaptive physical education, for instance.

Parents should be sure that the Total Service Plan indicates

all needed related services.

5. **Instructional Emphasis**

The Total Service Plan should list which areas will be emphasized in the educational program of the handicapped child. They must include the areas of instructional emphasis, annual goals, and, the most recently added, short term objectives. For some handicapped children, these areas might be particular academic subjects such as math or reading. For others, they may be very basic self help or independent living skills.

Parents deserve significant input into deciding these areas, since they live with their children and are familiar with their needs. For a severely retarded child, for example, one of the most important training areas might be toilet training, or maybe self-feeding. This helps both parent and child. For an older child, pre-vocational or vocational training may be very important, though many parents legitimately believe that basic academic skills should be taught until all possible progress is made.

6. **Present Level of Functioning**

To be sure that special education services build upon whatever abilities a child has, and that they focus on areas of greatest need, the child's current level of functioning in problem areas should be listed. This information usually comes from the diagnostic evaluation and the observations of parents and teachers.

7. **Length of School Year**

Most special education students will be adequately served if

they receive appropriate services during the regular school year, and in no case should the length of the school year be shorter for handicapped children than it is for non-handicapped children.

However, a few children may be so seriously disabled that they regress and lose skills at a substantial rate if they do not receive services throughout the year, including over the summer.

New Mexico's state special education standards do not discuss year-round programming, nor do the Section 504 regulations. But the U.S. Office for Civil Rights, which enforces Section 504, has ruled that an extended year program is required when evaluation of a child's needs shows that such a program is necessary to provide the child with an appropriate program. And several court cases have overturned state or local school policies which prevented the option of year-round programming from even being considered. Furthermore, P.L. 94-142 funds can be used to pay for extended year programs, if the school district or Regional Center decide to provide that program.

So if your child is not progressing in skills from year to year, or is losing skills because of a summer-long break in programming, then an extended year program should be considered, and can be listed in the Total Service Plan.

8. **Program Completion**

For older students, plans should be made concerning graduation. For some special education students, a standard high school diploma is a reasonable goal; if so, this should be listed in the Total Service Plan along with a basic plan and timeline for its achievement.

For many handicapped children, however, their program will

end with their receiving a "Certificate of Completion" indicating that they finished a planned special education program. This program might have included training in language, self help skills, socialization, or other areas as listed in the Total Service Plan.

Parents should remember that handicapped children are eligible for special education through age 21. Seriously disabled children can benefit from educational services beyond the usual high school graduation age. For these children, the Total Service Plan should generally show a projected completion date which is the same as the year in which the student turns 21.

9. **Special Transportation**

If a handicapped child needs special transportation arrangements in order to attend school, this should be noted on the Total Service Plan. Some physically disabled children may need accommodation on a specially equipped bus or van. Some mentally disabled children will not be able to ride on the regular school bus, or may need school bus service even if they live too close to the school to be in the usual bus service zone.

Schools must arrange for special transportation where this is necessary. In addition to school bus service, there are other options available. For instance, a school may pay the parent mileage to bring the child back and forth to school, if other transportation is unavailable. City bus service or even taxis may be used if everyone agrees with these arrangements.

If a disabled child must go to another location during the day to receive services listed in the Total Service Plan, the school is responsible for arranging transportation. For example,

if a child goes to a special center, clinic, or hospital twice a week for physical therapy, as called for in the Total Service Plan, then the school must provide transportation (by school bus or van, by reimbursing parents, or other suitable and agreed-upon arrangements).

Parent Consent

The past 9 pages have highlighted the basic requirements of a Total Service Plan, and have given an idea of what to look for. There are many factors to be considered! Parents should try to be familiar with these issues, however, because parents must agree in writing to the Total Service Plan before a child may be intially placed in a special education program.

If, as a parent, you have been involved in the Educational Appraisal and Review (E A & R) process, you'll probably have a good idea of what services and placement are being recommended, and why they are being recommended. If you have not been involved, this may not be so clear, especially since some educators talk in technical terms or jargon that you may not understand.

In any case, the school should arrange a convenient time to meet with you to discuss the planned program and to see if you agree to it. This may occur as part of an E A & R Committee meeting, or may be a separate meeting.

At the meeting, you are entitled to an adequate and understandable explanation of evaluation results, the nature of the recommended program and the reasons for it and how it will benefit the child. The school must also explain that you have a right to request an independent evaluation, and a right to challenge the proposed placement through a mediation conference or a due process hearing.

Your input is important. Be sure to ask questions if you don't understand something. Point out any disagreement you have and see if your concerns can be addressed. If you are not sure about whether to approve the Total Service Plan, think it over for a few days if necessary. You do not need to sign immediately. You can arrange a later date to meet with school officials to indicate your official agreement or disagreement.

Above all, DO NOT APPROVE THE TOTAL SERVICE PLAN IF IT CLEARLY DOES NOT MEET YOUR CHILD'S NEEDS, as discussed in the previous section. You may be told that the Plan is the best you can hope for, that other services are unnecessary or unavailable, or that your child won't get any services if you don't approve the Plan. But if the Plan is clearly not appropriate to your child's needs, there are ways of challenging the school's proposed program, including an impartial due process hearing. These action steps are discussed in Chapter 7. Taking these further steps is not easy, nor will it win you many friends among school officials. You must consider this against the seriousness of your objections. But school improvements often come only as a result of parent action. And as indicated in Chapter 7, help is available in pursuing an appropriate education.

The Instructional Component of the IEP

Once a Total Service Plan is approved for a disabled child, that child will be placed in a special education program. The Plan serves as a general guide to all services and programs to be provided.

Within 30 days of the child's placement, a very specific instructional program must be prepared, in writing. This detailed plan will be the daily guide for the teacher(s) that work(s) with your child.

There will be four major elements to the instructional plan:

1. Goals and objectives for each area of emphasis identified in the

Total Service Plan. If self help skills are one such area, then tying shoes or self feeding might be goals, and specific objectives toward achieving those goals might be to distinguish the left shoe from the right, or to properly grasp a spoon or fork.

2. Methods and timelines for measuring achieving objectives. Teachers must be able to clearly tell when a child has accomplished something, and the written plan should have estimates of how long this will take. For instance, a measure might be that a child will correctly identify the left shoe out of a pair 4 out of 5 times. Reaching this level of ability might be projected to take a month of training.

3. Instructional methods. Certain teaching methods work better for some handicapped children than for others. One disabled child might learn best from visual presentation of materials through pictures or charts, another may learn best by listening to information, still another by frequent repetition using the same words over and over. The methods most appropriate to your child's learning style as well as those necessary to overcome problem areas, should be listed.

4. Modifications for regular program participation. If there are specific activities or program changes necessary in order to allow a disabled student to participate in regular classes or activities with non-handicapped children, these should be listed. A ramp might have to be installed in the music room, for instance; the instructional material for the debate team might have to be put on tape.

Parents must be given the opportunity to review the instructional plan, if they request to see it. Some school districts may provide a copy as soon as the plan is completed, but most do not. If you want your own copy, you must ask the school for it and they must then give you a copy. Parents should make every effort to review the plan, so that they will know what kinds of training and educational activities their child is receiving on a day to day basis.

CHAPTER 5: CONTINUITY AND CHANGE IN A CHILD'S PROGRAM.

There are times when it may seem that parenting a disabled child is a never-ending responsibility. Being involved in planning and reviewing a child's special education program may seem the same way at times. But after the evaluation and placement of a child, with an individual instructional plan, parent involvement often becomes similar to parent involvement with non-handicapped children: occasional meetings with teachers and administrators, parent group meetings, school activities, etc.

Nonetheless, as time goes by there will be occasions when parent involvement becomes critical again. Each year the program plan must be reviewed, and every three years a re-evaluation must be done. At these times, or whenever clearly necessary, the school may recommend a change in the program level or disability category of a child, and parent input is required. In unusual cases, a school may suspend or expel a disabled student for misbehavior. Since this would be a severe change in placement, educational rights are again involved.

Annual Review of IEP

The Individualized Educational Program (IEP) of every special education student must be reviewed each year by the Educational Appraisal and Review Committee. This means that the Total Service Plan should be checked to see if it still meets the child's needs. Since the Instructional Component is a guide to the child's day to day activities and includes specific goals, it will have to be modified every year as a part of this review. New objectives, probably new goals, and new timelines must be established.

After a year of special services to their disabled child, parents will be in a better position to tell whether the school's program is benefitting their child. If you feel that the program is not sufficient and needs

changing or improving, the annual review is a good time to raise these possibilities. Parents must be invited to attend E A & R Committee meetings, so you should take advantage of this opportunity to express concerns and request changes you feel are necessary.

It may be that the school will not propose any substantial changes in the placement of the disabled child. Parents who did not attend the E A & R annual review must be informed in writing of this decision to continue the placement. All parents have the right to challenge a decision to continue a placement if they feel that a major change is necessary.

Proposed Changes in Placement

After an annual review, or at any other appropriate time, a school's E A & R Committee may recommend major changes in a child's placement. Examples of such changes are moving from a C level to a D level placement, switching from a class for mentally handicapped children to a class for learning disabled children, or, of course, terminating special education services altogether.

NO SUCH MAJOR CHANGE CAN BE MADE WITHOUT THE CONSENT OF THE PARENT. To obtain consent, school officials should be meeting with the parent to explain the reasons for such a change, including the benefit it will provide to the child. If the proposed change comes as a result of an annual review, the school must describe the review. A new or amended Total Service Plan must be developed by the E A & R Committee. It must be clearly explained to the parents that they have the right to request an independent evaluation concerning the child's needs, and to request an impartial due process hearing to challenge the school's decision. Independent evaluations have been covered in Chapter 3, and the due process procedures are

summarized in Chapter 7.

Although it is not specified in the state standards, current Section 504 regulations provide that an evaluation must be done again before a substantial change in placement is made. Parents who feel that another evaluation would help clarify whether a major change in placement was needed or not should request another evaluation by the school.

As with the intial placement of a disabled child, parents should not consent to an amended Total Service Plan if they feel clear that a change in placement would not meet the needs of their child.

Three Year Re-Evaluations

As long as a child remains in special education, a comprehensive evaluation must be done every three years, although certain parts of the evaluation may be skipped if the diagnostician recommends this. The three year diagnosis is literally an opportunity to reevaluate the child's needs. Many things can change over three years, and changes in the student's needs may not always be picked up on by the annual review.

As with the initial evaluation, the consent of parents must be obtained before the diagnostic tests are given for the three year re-evaluation. The school should meet with the parents to discuss the evaluation process, the kinds of tests to be given, and the reasons for and use of the evaluation. This explanation must be presented in a manner understandable to the parent. The parent has a right to ask that the school send him/her a summary of the test results. Where necessary, an interpreter must be provided by the school.

Unexpected Change in Placement: Suspension or Expulsion

Any school child, disabled or not, may occasionally break a school

rule or otherwise get into trouble. The school has a variety of disciplinary actions it can take to deal with such situations. Generally, penalties up to and including suspension for up to 10 days can be imposed on handicapped or non-handicapped children, as long as the student has an opportunity to hear the charges against him/her and to present his/her version of the facts. A disabled child's IEP may specifically recommend or prohibit certain disciplinary measures.

However, suspension for more than 10 days or expulsion from school altogether are clearly changes in placement for a special education student. If such action is being considered by the school, the E A & R Committee must meet to decide whether the student's misconduct was caused by the school's failure to appropriately meet the child's educational needs. For instance, if a child has or is believed to have an emotional disorder but is not in a class for behaviorally disordered children and/or is not receiving pscyhological counseling, then the school is probably not meeting his educational needs. Even if a child is in such a program, if the misconduct is typical of behavior that led to the referral to a behaviorally disordered class in the first place, the child cannot be punished for having such a disability. It would make no sense to kick a child out of school for a behavior problem which, by its very nature, qualified the child for special education.

Under the state standards, the E A & R Committee must determine whether any educational program is available which would probably lead to the correction of the misbehavior. Such a program might be in the public school, or it might have to be in a more restrictive setting. If the Committee recommends such a change in placement, the disciplinary proceedings stop, and the normal rules about changes in placement apply. That is, parents must consent, and can request a hearing if they do not consent.

If the E A & R Committee decides that there is no program which could correct the behavior, then the disciplinary process can continue, and a school could suspend or expel a disabled child if it uses the same procedures it uses with non-handicapped students.

There is an increasing number of court cases that imply that the key issue is whether the misbehavior is related to the child's disability. in these cases, if the misbehavior is a symptom of the disability or the result of inappropriate programs, then the school has a continuing responsibility to serve the child in some kind of appropriate program. Only when serious misbehavior is totally unrelated to a child's disability would suspension or expulsion make sense.

CHAPTER 6: ACCESS TO SCHOOL RECORDS

Parents of disabled children under the age of 18 are entitled to inspect and review nearly all educational records pertaining to their child. However, the school must generally get written permission from the parent before it can allow anyone outside the school to inspect, review, or receive copies of those records.

Legal Basis

The state standards for special education do not discuss the issue of student records in any detail. The primary law in this area is a federal law entitled the Family Educational Rights and Privacy Act. It is sometimes called the "Buckley Amendment" because the law is an amendment to the General Education Provisions Act and the amendment was sponsored by U.S. Senator James Buckley (co-sponsored by U.S. Senator Clairborne Pell). The information in the following sections is based on the provisions of this federal law. Like Section 504, the law applies to all public schools which receive federal funds under any program.

Parent Review of Records

A school district must allow parents of children (under 18) enrolled in their district to inspect and review the educational records of that child, subject to the exceptions noted below. Each school district mustadopt its own particular policies and procedures consistent with this requirement. Parents are also entitled to reasonable explanations of any records which they do not understand.

Making a Request

Parents can make a request to see their child's records by writing a

letter to the appropriate school official, usually the principal of the district superintendent. They may usually also appear in person to make a request. If so, they should sign a form indicating that they are making such a request. A letter or form documents the request and helps the school keep track of who is seeing the child's records.

Timeline for Response

Requests by parents to review records should be granted by the school in a reasonable period of time. In many cases, a parent will be able to see the records at the time of a request made in person, or within a day of two. In no case can a school take longer than 45 days to respond.

Records Included

The records to which parents must have access generally include materials relating to evaluation, program plans, student performance, teacher's observations, related services and a variety of other material. In fact, any educational records maintained by the child's school which are not specifically excluded (see next paragraph) must be made available to parents on request. The school must disclose what types of records are maintained and who is responsible for maintaining them.

Records Not Included

Certain records are not covered by the law, and parents may be denied access to them. The following record are included in this category:

1) Personal notes which are maintained by a particular teacher, counselor, therapist, etc., which are not shared with any other school personnel (except a temporary substitute) and which are not part of the child's identifiable school folder
2) Records of school police or security officials
3) Personnel records of school employees

Students Aged 18-21

Once a student reaches age 18 it is the student, not the parent, who has all the rights described above concerning access to records. In fact, the parent of a 20 year old student in some cases can (and should) be denied access to that student's records without the written permission of the student.

However, in many cases the parents of seriously mentally handicapped students aged 18-21 will be given access to the child's records, although to protect the students the student should approve requests for records. A legal guardian of a disabled person 18 or older has the same rights as the parent of a minor child with respect to reviewing records.

Copies of Records

Parents are generally entitled to copies of all educational records that they have the right to inspect and review. However, the school district may establish reasonable fees for the cost of reproduction.

It is a good idea for parents of handicapped children to maintain their own file of the key documents concerning their child, such as a summary of evaluation results and the Total Service Plan.

Amending Records

If a parent discovers that there is something in a child's records which is inaccurate or misleading, the parent may ask the school to remove or change it. For instance, there may be false statement, or information which is derogatory and unfair.

The school must decide within a reasonable period of time whether to amend the records in accordance with the parent's request. If the school refuses,it must notify the parents and tell them of their right to appeal

by requesting a formal hearing. This hearing may be, but is not required to be, as formal and impartial as the due process hearing described in Chapter 7.

The hearing officer, who may be a school employee, will hear both sides of the case and make a binding decision whether the record in question will be changed. If the decision is not to change it, parents still have the right to put a statement into the child's record regarding the disputed information. Their statement becomes a part of the educational records from then on.

Disclosure of Records to Others

Educational records are confidential, and the school must treat them that way. The only people who have access to personally identifiable records are those who have a legitimate professional need for them, and any other person specifically authorized by the parent.

People with a professional need for seeing records of a child usually do not need the parent's permission. Examples of such persons include teachers or other school personnel who provide services to the child; officials of a school to which a child plans to transfer; and state or federal officials which monitor or investigate schools.

CHAPTER 7: RESOLVING DISPUTES

Sooner or later, parents of handicapped children will probably have some disagreement or problem - large or small - with their local school. Disagreements are to be expected in an important matter such as special education, and they should not be avoided. Overcoming problems and resolving disagreements can make the difference between a mediocre or even poor program and a quality, appropriate program as seen through the eyes of parents.

Disputes are resolved through parent involvement. There are three steps to take, whatever the problem may be: clarify the issue or problem, become informed, and take appropriate action. This chapter is mainly concerned with suggesting strategies for action.

Your Right to Disagree

Parents must agree in writing before the public school may evaluate their child or place their child in a special education program. This means they have the right to disagree with a school's recommendation or decision, if that decision is not consistent with the educational rights of the handicapped child. Only when parents are satisfied that their child will receive an appropriate evaluation or an appropriate special education program should they agree to these decisions. Until then, a parent should discuss, question, meet, suggest alternatives and pursue other strategies with school officials until disagreements are resolved.

Clarify the Issue

When a parent has a problem with the school, it helps to identify the problem as clearly as possible. It is not very useful to say that a child isn't doing very well or doesn't have a very good program, because problems

this broad or vague are hard to solve. The real problem may be that the instructional plan for the child has overlooked a major area of need, or that speech therapy is needed and not being provided, or that the child is in a class with mentally retarded children but the child is not retarded. Being clear about the specific problem makes it easier to deal with.

Be Informed

When the problem is clear, the next step is to get information about your child's needs and rights. You may have to review your child's evaluation or Individualized Educational Plan, consult with a teacher or therapist, or talk to a professional independent of the school.

This Guide should also help in pointing out your opportunities for involvement and what the school's responsibilities are toward your child.

You are most likely to be successful in resolving disputes if you have information to support your position. The more formal the action you take, the more important it is that your information be accurate and complete. For instance, if your disagreement with the school is over whether yur child should be evaluated for speech therapy or not, and the school is refusing to evaluate, you may at first simply need to talk to a teacher, therapist, or your doctor to see if they feel there is a need and to understand why they feel there is a need. This information could then be presented to the E A & R Committee. On the other hand, if you are preparing for a formal due process hearing, your information should consist of written statements from relevant professionals, or their personal testimony.

Informal Action

The first action step in resolving disagreements should usually be to

approprach the teacher or the E A & R Committee, explain the problem, and work toward a solution in as straight forward and non-threatening a manner as possible. This can be done over the phone, through the mail, or in person. Often the problem can be resolved with a phone call or letter. Present your side of the issue, and be reasonable but firm about your position.

Assertive parents can be very effective in getting things changed. Many teachers have noted that an active parent has gotten things started that they were not in a position to change themselves.

The school's response to the parents' initial contacts about a problem may not seem satisfactory. One of the main issues facing parents is sorting out valid reasons for the school's position from excuses which infringe on the legal rights of their child. For example, the problem may be that the school has decided that the child will not get speech therapy. If they have done a comprehensive evaluation which shows no need for therapy, that is a valid reason (but if you think it was a poor evaluation or if you have an independent evaluation that does recommend therapy, you should still take further action). On the other hand, if the school's reason is that there is not enough money in the budget, not enough other children with the same need, not enough therapists to serve everyone, etc., there are not valid reasons to deny services which your child needs, as determined by a professional.

The school has an advantage in that the teachers and administrators are familiar with special education terminology and procedures. An unresponsive person will be able to think of lots of reasons why something can't be changed, or why something won't work, or why something just isn't allowed. Don't be discouraged if this is the sort of response you get to your request for further evaluations, more services, different placement

levels, or whatever your disagreement concerns.

If the school's response does not satisfactorily resolve the problem, the parent will have to be persistent and follow up. If your child's rights are at stake, don't give up! And don't take no for an answer!

Put It In Writing

When it becomes clear that initial contacts are not going to resolve the problem, it is very important to document your efforts. There are two important reasons for this. First, it helps establish a record of your attempts. At a later stage, you may have to show what steps you took, or how long you have been trying to resolve a problem, or with whom you have been dealing. Secondly, it is a way of increasing pressure on the school. As a written record is established, more people will become aware of it, and the school is more likely to respond in a serious and official manner.

If you have an important question for school officials, ask it in writing. If they have given you information or an answer that is not satisfactory, ask them to put it in writing, or write to them expressing your understanding of what was said or decided. This should be done anytime a meeting is arranged with the school to resolve problem. In unusual cases you may even want to take a tape recorder to a meeting for later reference. Always keep a copy of letters you write to school teachers or officials.

Move Up The Bureaucracy

When initial problem-solving contacts fail, parents should not hesitate to take their problem to someone "more important". The teacher, E A & R Committee, or other person you first contact may not want to change things, and may not even have the authority to do so.

Depending on the specific problem, the next person to go to will probably be the special education coordinator for the school district or (if your district has separate areas) the area coordinator. The parent will again have to explain the issue and the disagreement.

Give this person a reasonable amount of time to resolve the problem. The coordinator may ask the E A & R Committee to meet again, or may ask someone else to meet with you. These processes take time. However, if it is clear that you are just "getting the run-around", of if the coordinator makes a decision which does not resolve your disagreement, you may want to move further up the bureaucracy, up to and including the district superintendent.

The same rules of informal advocacy apply: be clear about the problem, get the facts and present them, and be assertive. It may help to write down the points you want to make or the questions you want to ask. Don't be intimidated by the authority of the superintendent; it is that authority that you are seeking to utilize on behalf of your child.

Mediation Conference

The Superintendent (or the special education coordinator) may request that you attend a "mediation conference". You may request such a conference yourself. The mediation conference is a formal meeting that usually involves the parent, the special education official(s), other school officials, and a "mediator" who may be a school employee, but might be someone from outside the school. The role of the mediator is to try to see if there is a compromise solution to the problem that both the parent and the school can agree to. A mediation conference may be helpful to the parent in working out a solution. However, if a mediation conference does not resolve the problem, there are still other steps you can take.

Seeking Outside Help

Taking these, or further advocacy steps is not easy. Dealing with school officials can be intimidating. If you are having a hard time getting information, getting organized, or overcoming nervousness, ask for help. A friend or fellow parent can accompany you to meetings with school officials if you want.

Especially if you are thinking about taking formal action, you should also consider contacting advocacy groups, such as the Protection and Advocacy System, for assistance or advice. A short list of other suggested organizations which might be able to help you protect the educational rights of your child is included as Appendix A.

Formal Action: The Due Process Hearing

If the E A & R Committee has made a decision concerning evaluation, placement, or services for your child which you do not agree with, you have the right to request an impartial, due process hearing. This is a very formal process which allows both the parent and the school to present its case before a hearing officer who is not affiliated with the school.

A due process hearing can be long, complicated, difficult, and possibly expensive. Informal action discussed above, after a disputed E A & R decision, may in many cases be easier and faster, and will often produce good results.

However, a due process hearing is your opportunity to present your case to an independent person who has the authority to order the school to provide appropriate services.

1. **Requesting a Hearing**

   To request a due process hearing, simply write a letter to your school district superintendent. The letter should ask for a due process hearing and state what problem you are seeking to re-

solve. As usual keep a copy for yourself.

2. **Selecting a Hearing Officer**

Within 5 days of receiving your letter, the school must get together with you to select a hearing officer. The state maintains a list of trained people, but other people can be chosen as long as they are impartial and understand the special education standards. The state school superintendent will select someone if you and the school can't agree on a hearing officer.

3. **Date, Time and Place of the Hearing**

The hearing must be scheduled to take place at least 10 days but no more than 15 days from the time of your request for the hearing. It should be at a time and place that is reasonably convenient to both parent and school. Once a due process hearing has been requested the child must remain in his/her placement unless the parent and the school both agree to a change. However if the child is not yet in a public school program the child must be placed in a program until the issue is resolved, if the parent requests it.

4. **Preparing Your Case**

The decision of the hearing officer will be based on the evidence presented. You will have to have written evidence (such as evaluations, school records, recommendations from professionals, etc.), and you may need people to testify in person. The school will be doing the same thing, and of course it will be able to call upon any of its teachers, therapists, or diagnosticians that it needs. In order to win, you will have to have evidence that is more convincing than the school's.

5. **Using an Attorney**

You do not have to have an attorney to represent you in a due process hearing. You can do it yourself, or take an advisor or consultant with you. But the school will almost surely have an attorney to represent it at the hearing, and this will put the parent at a distinct disadvantage. You are entitled to have an attorney, and it is a good idea to use one.

6. **The Hearing Itself**

The state standards for special education spell out all the procedures of a hearing. Anyone requesting a hearing should read them carefully. However, they generally provide that both the parent and the school will be able to present evidence, to have witnesses testify, and to cross-examine the witnesses of the other side.

7. **Results of the Hearing**

The hearing officer will have to decide whether there was legiti-

mate cause for the school's decision which was being contested in the hearing. The hearing officer has broad powers to order whatever educational evaluation, placement, or services are necessary for the child. The decision of the hearing officer must be delivered to the parent and school within 15 working days of the end of the hearing or receipt of the transcript by the hearing officer. So if all the timelines are met, you should have a written decision from the hearing officer within 45 days of the time when you first asked for the hearing.

Appeals to the State

A decision of a hearing officer may be appealed, by either the parent or the school, to the State Department of Education. When an appeal is made (in writing to the State Superintendent, within 10 days of the decision of the hearing officer) the State Superintendent will appoint someone to review the decision. The reviewing authority may reverse, uphold, or modify the decision of the hearing officer. The parent and the school must be notified of the reviewing authority's decision within 30 calendar days after the request for a review is received, unless an extension has been granted for a good reason, and all the parties have been informed in writing. That decision is final and binding unless the parent or school goes to court.

Going to Court

If the state level review is not favorable, the parent has the option of going to court. In unusual cases, a suit could be brought instead of going to a due process hearing. But in most cases, parents must use the hearing procedure first before a judge will hear their case.

Court cases tend to be long, complicatd, and expensive, and the result is, of course, always uncertain. Nonetheless, parents around the country have had to go to court, frequently successfully, in order to protect the educational rights of their children. The parent considering a lawsuit

should of course consult an attorney.

Other Remedies

In addition to the various strategies for action discussed above, there are a few other options parents can consider.

1. **Complaint to the Office for Civil Rights**

If a parent believes that a school's action, or lack of action, is in violation of Section 504 (See Chapter 1), the parent can file a complaint with the Office for Civil Rights of the U.S. Department of Education. The Office for Civil Rights (OCR) has the authority to investigate the public school to determine if the complaint is valid or not, and to require the school to take corrective action if there has been a violation of the educational rights guaranteed by Section 504.

A written complaint should give the name, address, and phone number of the person filing the complaint, the nature of the problem or issue and why it is felt to be in violation of Section 504, when it happened, and the name and address of both the school person responsible and the school district attended by the child. The complaint may also suggest the result that the parent wants.

Complaints should be sent to this address:

Office for Civil Rights
U.S. Department of Education
1200 Main Tower Building
Dallas, Texas 75202

2. **The Local Board of Education**

Parents who are comfortable using highly political procedures can consider taking their problem to their local board of education. Since this group is the ultimate governing board of education. Since this group is the ultimate governing authority for the school district, the board has

considerable decision-making power. As an elected group, the board may be responsive to citizen concerns.

3. **Complaint to the State Department of Education**

Parents who believe that a local school district's policies, procedures, or practices are not consistent with state special education standards may complain to the State Department of Education. The Department has the responsibility for assuring that the local districts comply with state standards. Special education programs are funded through the state funding formula (see Chapter 2), and should not be approved for funding if they do not meet the standards.

Complaints can be sent to:
State Superintendent for Public Instruction
N.M. Department of Education
Education Building
Santa Fe, N.M. 87503

or

State Director of Special Education
N.M. Department of Education
Education Building
Santa Fe, N.M. 87503

4. **Complaint to the U.S. Department of Education**

Parents who believe that the state's special education department is not enforcing its own state standards in matters of providing a free, appropriate education to their child may complain to the U.S. Department of Education. It is this department that is responsible for overseeing the monies that are being spent by the school district, under P.L. 94-142. Since P.L. 94-142 is a federal law, and since New Mexico's special children are protected under that law, this department is responsible for assuring that appropriate services are being given.

Complaints can be sent to:

U.S. Department of Education

Office of Special Education & Rehabilitative Services

Washington, D.C. 20202

Appendix A

SPECIAL EDUCATION ADVOCACY RESOURCES

The Protection and Advocacy System, which produced this Guide, is available to parents and other advocates for further information, advice, and assistance in matters of special education. You can reach the Protection and Advocacy System at this address and phone number:

Protection and Advocacy System
2201 San Pedro N.E., Bldg.4, Suite 140
Albuquerque, N.M. 87110
Telephone: (505) 888-0111
State-wide toll-free: 1-800-432-4682

In addition, there are other parent advocacy groups which can be of assistance. Some have only one office or location, some have local groups in different parts of the state. Members or staff of these groups may be able to help parents resolve special education problems.

Association for Retarded Citizens of New Mexico
8210 La Mirada N.E.
Suite 500
Albuquerque, New Mexico 87109
298-6796

Developmental Disabilities Planning Council
440-B Cerrillos Road
Santa Fe, New Mexico 87503
827-3392

Epilepsy Council
P.O. Box 13204
Albuquerque, New Mexico 87192
296-2933

Governor's Committee on Concerns of the Handicapped
Bataan Memorial Building - Room 171
Santa Fe, New Mexico 87503
827-3495

Las Luminarias, New Mexico Council of the Blind
P.O. Box 1881
Albuquerque, New Mexico 87103
247-0441

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Mental Health Association
1709 Lena Street
Santa Fe, New Mexico 87501
982-8516

New Mexico Association for the Deaf
c/o Irene Bland
P.O. Box 577
Cedar Crest, NM 87008
281-5977

Parent Involvement Center
1700 Pennsylvania N.E.
Albuquerque, New Mexico 87110
292-0102

United Cerebral Palsy of New Mexico
201 San Pedro N.E.
Albuquerque, New Mexico 87108
262-2634

Legal Aid Society of Albuquerque, Inc.
505 Marquette N.W.
P.O. Box 7538
Albuquerque, New Mexico 87104
243-7871

Bernalillo County Mental Health/Mental Retardation Center
Developmental Disabilities Division
2600 Marble N.E.
Albuquerque, New Mexico 87106
843-2935

Albuquerque Special Preschool
3501 Campus N.E.
Albuquerque, New Mexico 87106
266-8811

Parents Reaching Out
1127 University Blvd., NE
Albuquerque, NM 87102
(505)842-9045

ALBUQUERQUE PUBLIC SCHOOLS
SPECIAL EDUCATION DEPARTMENT

NOTIFICATION OF REFERRAL

Date: _____

Dear _____:

_____, _____, _____,
Student Name | Student Number | Date of Birth

has been referred to _____ for individual testing and evaluation.

The reason(s) for this referral are:

Reading	_____	Handwriting	_____	Motor Function	_____	Superior Ability	____
Math	_____	Behavior	_____	Vision	_____		
Spelling	_____	Language	_____	Hearing	_____		
Reevalaution	_____	Speech	_____	Health	_____		
Other	_____						

This evaluation will assist us in planning an effective educational program for your child. The diagnostician or therapist will be contacting you for an appointment. When you meet with the diagnostician or therapist, you will discuss the tests that will be administered. You will be asked to sign permission for the evaluation.

Because of the number of students referred for diagnostic services, there may be a delay from the time you receive this notification until the time you are contacted by the diagnostician or therapist. If you have any additional concerns regarding your child prior to the evaluation, please let us know. We appreciate your efforts in working with us to develop an effective program for your child.

_____ _____
Principal's Signature | School

Parent Copy - white School Copy - yellow Area Office Copy - pink

SE-12

ALBUQUERQUE PUBLIC SCHOOLS
SPECIAL EDUCATION DEPARTMENT

East Area Office_____
North Area Office_____
South Area Office_____
Dist. Diagnostic Ctr._____

PERMISSION TO TEST

Student's Name:_____ Date of Birth:_____

Student Number:_____ School:_____

APPROVAL IS HEREBY GRANTED FOR:_____
(Student Name)

to receive individual testing by qualified educational diagnosticians and/or appropriate certified therapists. The results of the testing will be used to help the schools plan an appropriate program. The nature and purpose of the measures to be used have been explained to me. I understand that I have the right to examine all relevant school records with respect to the evalaution of my child. I may, at my own expense, have an independent evaluation of my child. If I cannot afford such an evaluation, school officials will assist with a referral to an appropriate public agency. I understand that if I do not agree with the findings, I have the right to request mediation or an impartial due process hearing by submitting a written request to the Superintendent. I understand that if my child is placed in a Special Education program, that routine achievement and progress evaluations will be conducted by school personnel in order to monitor progress. I have been given a copy of the handbook entitled The Exceptional Student.

_____ _____ _____ _____
Parent or Legal Guardian Date Witness Date

This child speaks and/or understands the following language(s):_____

This child needs an interpreter: _____ _____
Yes No

****

REFUSAL TO TEST

I DO NOT AGREE TO HAVE MY CHILD EVALUATED. I understand that I or school officials have the right to request mediation or an impartial hearing by submitting a written request to the Superintendent. I understand that this Refusal to Test is not a request for mediation or a hearing.

_____ _____ _____ _____
Parent or Legal Guardian Date Witness Date

Area Office Copy - White Parent Copy - Yellow

ALBUQUERQUE PUBLIC SCHOOLS
SPECIAL EDUCATION DEPARTMENT

N O T I C E T O P A R E N T S

EDUCATIONAL APPRAISAL AND REVIEW MEETING

Date: _____

Dear _____:

An Educational Appraisal and Review (E.A.&R.) Committee meeting is scheduled to discuss the special education program for _____ (Student Name),

_____ (Student Number), _____ (Date of Birth).

School staff who work with the student, and _____, Special Education Coordinator, will be attending. We hope you will come to this important meeting so that we can work together to plan an educational program which will meet your child's needs.

Please call _____ (Name) at _____ (Phone Number), or return this form to me to verify whether or not you can attend this meeting. If you are not able to attend at this time, we will attempt to reschedule.

This meeting is scheduled for:

Date: _____ I will be able to attend. _____

Time: _____ I will not be able to attend. _____

Place: _____

_____
Parent of Legal Guardian

_____
Date

Sincerely,

_____ _____
Signature (Principal, Teacher, Coordinator) Date

Parent Copy - white School Copy - yellow Area Copy - pink SE-1?

ALBUQUERQUE PUBLIC SCHOOLS
SPECIAL EDUCATION DEPARTMENT
EDUCATIONAL APPRAISAL AND REVIEW COMMITTEE MEETING REPORT

Individualized Educational Program
TOTAL SERVICE PLAN

AREA: SEND

HOME SCH LOC: ___

STUDENT NO: ___ GRADE: ___ DATE OF EA&R: ___ (MM DD YY)

PARENT PRESENT: Y N D

COORDINATOR PRESENT: Y N

NAME: _____ (LAST) / _____ (FIRST) / ____ (MI)

PROGRAM/SERVICES DATES: Beginning ___ (MM DD YY) ___ (MM DD YY)

DOB: ___ (MM DD YY)

PROG LEVEL: A B C D R (CIRCLE ONE)

REVIEW DATE: ___ (MM DD YY)

PROJECTED PROG NO: ___ (LOCATION) ___ (CLASS)

(For office use only)

PURPOSE OF MEETING:

(1) ☐ Develop IEP Total Service Plan
(2) ☐ Annual Review
(3) ☐ Revise IEP Total Service Plan
(4) ☐ Develop Exit Plan
(5) ☐ Other _____ (SPECIFY)

This student's present levels of educational performance have been assessed by qualified personnel and summarized separately in diagnostic and/or progress report(s) dated _____. Screening, evaluation and other performance information have been considered by this committee in making the following eligibility statement and program recommendations.

EXCEPTIONALITY (IES)

1 - Primary 2 - Secondary

(01) ___ Educable Mentally Handicapped
(02) ___ Trainable Mentally Handicapped
(03) ___ Physically Impaired
(04) ___ Behaviorally Disordered
(05) ___ Communication Disordered (Lang.)
(07) ___ Communication Disordered (Other)
(06) ___ Learning Disabled
(07) ___ Gifted
(08) ___ Deaf
(09) ___ Hearing Impaired
(10) ___ Blind
(11) ___ Visually Impaired
(12) ___ Multiply Impaired
(13) ___ Deaf/Blind
(15) ___ Not Eligible
(16) ___ Severely/Profoundly Handicapped
(20) ___ Continue Prior Eligibility
___ In Exit
(Put X if in process)

SERVICES NEEDED/SERVICES PROVIDED BY CERTIFIED PERSONNEL

(Put "X" by Selections)

Needed	Ancillary	Provided by
*(68) ___	Psych Services	___ Certified Psychologist
*(12) ___	Speech/Language	___ Certified Speech and Language Pathologist
*(14) ___	Occup. Therapy	___ Certified Occupational Therapist
*(10) ___	Physical Therapy	___ Certified Physical Therapist
*(21) ___	Audiology	___ Certified Audiologist
(25) ___	Interpreter	___ Certified Interpreter For The Deaf
*(11) ___	Orientation/Mobility	___ Certified Orientation and Mobility Trainer

Other Support Services

(07) ___	Special Busing	___
(23) ___	Counseling	___
(24) ___	School Health	___
(08) ___	Medical Diagnosis	___
*(27) ___	Adapted P.E.	___
(30) ___	Social Work	___
(32) ___	Vocational Assessment	___
*(33) ___	Language Clinic	___

Projected Service No. (LOCATION) (PROGRAM NO)	Service Dates (Indicate only if different from Program/Service Date shown above) (MM DD YY)
___	___
___	___
___	___
___	___
___	___

FOR HIGH SCHOOL STUDENTS ONLY

Projected Date of HS Completion

Diploma/Certificate Basis ___ (MM YY)

(Put "X" by Selection)

(1) ___ H.S. Credits
(2) ___ IEP

Y N A Participate in NMHSPE

*An evaluation is required prior to recommendations for these services

Evaluations Needed

(50) ___ Language	(70) ___ PT
(55) ___ OT	(75) ___ Adapted P.E.
(60) ___ Audiological	(76) ___ Achievement Testing for Exit Planning
(65) ___ Psychology/Psychiatry	(77) ___ Orientation/Mobility
Y N A Participate in C.T.B.S.	(78) ___ Language Clinic

Participate in other group tests SPECIFY

Y N A _____ Y N A _____ Y N A _____

_____

_____
TESTING ADAPTATIONS NEEDED

PROGRAM LEVEL:

A - Special education itinerant support w/regular program
B - Special education resource room w/regular program
C - Special education classroom up to full time/integration as appropriate
D - Special education classroom up to full-time/integration as appropriate
R - Regular Classroom

_____

SE10 (9-83)

ALBUQUERQUE PUBLIC SCHOOLS

IEP Total Service Plan for _____
Name Student Number Date

IEP GOAL AREAS
(Put "X" by Selections)

(01) ___ Readiness
(02) ___ Reading
(03) ___ Mathematics
(04) ___ Social Studies
(05) ___ Academic Other
(06) ___ Language Arts
(07) ___ Speech/Oral Language
(08) ___ Social Adaptation/Behavior
(09) ___ Prevocational/Vocational
(10) ___ Motor Skills
(11) ___ Self Help
(12) ___ Enrichment/Acceleration
(13) ___ Vision Aids
(14) ___ Auditory Training
(15) ___ Science
(16) ___ Functional Academics
(17) ___ Home/Community Living Skills
(18) ___ Sensory Stimulation
(19) ___ Socialization
(20) ___ Other _____ (Indicate)

IEP Goal Statements (State Goals in Each Area Specified)

_____
_____
_____
_____
_____

Specific Objectives will be documented in the Instructional Component

Extent of Participation in Regular Program

___ Full participation in all Regular Curricular and Extra Curricular Activities, except for the time in Special Education

___ Limited participation in Regular Curricular and Extra Curricular Activities, as follows

_____
_____

Regular Program Adaptations/Modifications, *Including* Alternative Disciplinary Procedures

___ No Adaptations/Modifications ___ Adaptations/Modifications, as follows _____

_____
_____

COMMENTS _____
_____

PARENT AGREEMENT

The above described program and services have been explained to me and I consent to have my child placed in this program and receive the services. I understand that I will be notified before there is any change in this program. I have received a copy of the handbook "The Exceptional Student in the Albuquerque Public Schools" and understand the rights described therein. I have been advised that I may, at any time, request an outside evaluation of my child. Should I disagree with proposed programming decisions, I understand that I may request mediation or a due process hearing.

_____ _____
(SIGNATURE) (DATE)

I do not agree with the above recommendations, and do not consent to have my child placed in this program and/or receive the recommended services. I understand that school officials or I may request mediation or an impartial due process hearing in this matter. I understand that this is not a request for such a hearing and that a request for hearing must be submitted to the superintendent in writing.

_____ _____
(SIGNATURE) (DATE)

AGREEMENT Yes	AGREEMENT No	COMMITTEE MEMBER
___	___	_____ Chairperson, Coordinator or Designee
___	___	_____ Principal or Designee
___	___	_____ Teacher
___	___	_____
___	___	_____
___	___	_____

Parent Name _____

Address _____

Zip _____ Phone _____

Area Office Copy — White School Copy — Yellow Parent Copy — Pink

SE10-A 9/87

ALBUQUERQUE PUBLIC SCHOOLS

INDIVIDUALIZED EDUC TION PROGRAM
TOTAL SERVICE PLAN

AME _____ DATE OF BIRTH _____

DENT NUMBER _____ SCHOOL _____

EFFECT _____ to _____ REVIEW DATE(S) _____

UMMARY OF PRESENT LEVEL(S) OF PERFORMANCE:

REA _____ AREA _____

_____ AREA _____

AREA _____ AREA _____

RE-WRAT: (date) _____ R _____ S _____ A _____ POST-WRAT: (date) _____ R _____ A _____

RECOMMENDED SERVICES	HOURS PER DAY OR WEEK	PROVIDED BY	POSITION
ecial Education			
Grade Regular ucation			
ade Physical ucation			
ervice			
Related Service			
Related Service			
Related Service			
Special Transportation			

IEP TEAM PARTICIPANTS	AGREEMENT WITH IEP		DATE
	YES	NO	
Teacher			
Teacher			
Parent			
School Representative			
Diagnostician Coordinator			
Student (If			

[illegible] and (name(s)) parents contacted to partic pate _____

MMENTS:

ALBUQUERQUE PUBLIC SCHOOLS
SPECIAL EDUCATION DEPARTMENT

P E R M I S S I O N T O P L A C E

Student's Name: _____ Date of Birth: _____

Student Number: _____ School: _____

I have received an explanation and copy of the Educational Appraisal and Review Committee's recommendation and understand the following:

1. that my child qualified for this placement under New Mexico Standards for Special Education as _____ (exceptionality);
2. that my child will be placed in a(n) _____ level special education program from _____ to _____ (not to exceed 1 year); and,
3. that the Special Education Department will consult with me before there is any change in this program.

I have reviewed the written plan for educational goals and/or services to be provided through this placement. I further understand that I will be invited to participate with my child's teacher in the development of the instructional part of the plan.

I agree with the plan for my child and give my permission for this placement.

Parent or Legal Guardian	Date	Witness	Date

R E F U S A L T O P L A C E

I DO NOT AGREE WITH THE EDUCATIONAL APPRAISAL AND REVIEW COMMITTEE'S RECOMMENDATION AND DO NOT GIVE PERMISSION FOR MY CHILD'S PLACEMENT. I understand if I wish to request an impartial due process hearing, it is my responsibility to submit a written request to the Superintendent and that this refusal is not a request for such a hearing.

Parent or Legal Guardian	Date	Witness	Date

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ALBUQUERQUE PUBLIC SCHOOLS

INDIVIDUALIZED EDUCATION PROGRAM
IMPLEMENTATION PLAN

Name _____ School _____ Implementor _____

Long Term Goal _____

_____

Initiated	Short Term Objectives/Criteria	Methods/ Materials	Date & Method of Evaluation	Comments/Summary

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